White Salmon Planning Commission Meeting
A G E N D A
October 16, 2019 – 5:30 PM
220 NE Church Ave, White Salmon

Call to Order/Roll Call

Approval of Minutes

1. Minutes of September 25, 2019

Public Hearing

Kalberg Critical Areas Review

a. Appearance of Fairness Doctrine and Conflict of Interest
a. Staff Presentation
b. Application Presentation/ Comment (10-minute limit)
c. Public Hearing (3-minute testimony per person)
d. Planning Commissioner Questions
e. Planning Commission Deliberation
f. Planning Commission Decision

Adjournment

Item Attachment Documents:

1. Minutes of September 25, 2019

CITY OF WHITE SALMON
Special Joint Meeting City Council and Planning Commission
Wednesday, September 25, 2019
DRAFT

COMMISSION AND ADMINISTRATIVE PERSONNEL PRESENT

Commission Members:	**Staff Present:**
David Lindley	Erika Castro Guzman, Associate Planner
Anne Medenbach	Ken Woodrich, City Attorney
Tom Stevenson	Jan Brending, Clerk Treasurer
Ross Henry	
Michael Morneault	

CALL TO ORDER/ ROLL CALL

Chairman David Lindley called the meeting to order at 5:30 PM. There were approximately 5 people present.

City Council members present: Marla Keethler, Ashley Post, and Donna Heimke. Note: Between 5:30 p.m. and 5:50 p.m., Marla Keethler was absent from the meeting. There was a not a quorum of the city council during that time.

MINUTES OF RECORD

1. Minutes of August 28, 2019

Moved by Anne Medenbach, seconded by Tom Stevenson.
Motion to approve minutes of August 28, 2019. CARRIED 5 – 0.

PRESENTATION

2. **Comprehensive Plan Update: Status Check**

Scott Keillor, WSP Inc. provided an overview of the community outreach process conducted during the summer. Steve Faust, 3J Consulting, provided an overview of the draft 2040 vision. Faust noted that the vision is written from the perspective of what White Salmon looks like in 2040.

David Lindley said he feels the vision is part statement, part prescriptive and part aspiration.

Ken Woodrich said the vision is meant to be aspirational and the planning commission and city council will then formulate policies to reach those aspirations.

Council members discussed the vision and four elements of the vision and provided the comments:

- Discuss the need for access to the Columbia River
- Focus on connectivity and accessibility of parks and recreation and need for additional parks versus focusing on the existing parks and recreation

opportunities that already exist but include preserving and improving existing opportunities

- Needs to have more specificity about the size and character of White Salmon, what is unique about White Salmon such as the ability to care for each, and the ability to care for the amenities that are important in White Salmon
- Finding words to replace "small" as a descriptor of White Salmon such as "cozy."
- Instead of using "small character" elaborate to the personal human nature or heart of the community.
- Focusing business development on meeting the needs of the residents of White Salmon
- Focus on local residents who should be in control, want the outside to come and be part of our community.
- Highlighting the need to create more green space and provide access to green space with new developments.
- Realizing that because of the size of White Salmon every new development has an impact on the city.
- There is a tension due to supply and demand for the housing area -- there needs to be an income strata and that all the residents cannot be at the top to have a sufficient community.
- The need to watch what is happening in areas around White Salmon and then put a structure in place that is adaptable.
- The need to be proactive versus reactive.

Tom Stevenson provided to the city council, planning commission and consultants a copy of a City of Carmel document titled "Land Use and Community Character Element" noting that he feels a lot of what is in the document could be used by White Salmon.

Council and planning commissioner members noted that they like the format and layout of the vision and four elements.

Public Comment

Tao Berman, White Salmon said that everyone made excellent points. He said he continues to see contradiction in statements but that it is possible have both of some of the things causing contradiction. Berman said that the people who make White Salmon special are not only those who live here but those who came to visit. He said he wants to share White Salmon and be inclusive. Berman said that when discussing keeping local residents in control or focusing on local residents it is important to understand how that might come across to visitors. He said that in order to have more affordable housing, smaller lots with larger developments is going to be necessary. Berman said he also feels the city needs to work on things such as how existing structures look. He said he is happy with what the city council and planning commission are doing.

Ruth Olin, White Salmon said there needs to be a variety of housing types and income levels in White Salmon. She said the mix is what makes White Salmon who we are. Olin said there are a lot of examples of places that are doing things right and that she hopes the city council and planning commission will look at what those areas are doing. She said there is a need for "wild places." Olin said it will be our kids who are saying either "what were you thinking" or "thank you for what you did." She said that she wants to see habitat brought back and landscaping put into commercial areas.

Ken Woodrich noted that the City of Portland had a vision many years ago in constructing the Bull Run Water Reservoir and preserving Forest Park both of which continue today.

NEXT STEPS

3. The city council and planning commission agreed to provide comments to Erika Castro Guzman by Monday, October 7th at 5:00 p.m. The consultants will then take those comments and reformulate the vision and four elements. A joint work session of the city council and planning commission will be scheduled in October to meet with the consultants to refine the language of the vision and four elements.

ADJOURNMENT

4. The meeting was adjourned at 7:37 p.m.

David Lindley, Chairman

Erika Castro Guzman, Associate Planner

Item Attachment Documents:

Kalberg Critical Areas Review
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October X, 2019

Mr. Robert Kalberg
3567 Sky Haven Lane
Oceanside, CA 92056

Re: Critical Areas Ordinance Review (WSMC Chapter 18.10) for Short Plat application (WS-XXX-XXX)

Dear Mr. Kalberg,

Our department has reviewed the submitted Critical Areas Habitat Study and Habitat Management Plan (habitat study/HMP), addendum memo to the habitat study/HMP, and the Geologically Hazardous Critical Area Report associated with the proposed Kalberg short plat application (WS-XXX-XXX). Staff finds that the applicant has sustained the burden of proving the application complies with the applicable provisions of the White Salmon Critical Areas Ordinance (WSMC 18.10). Therefore, staff recommends **Approval, subject to the conditions** stated at the end of this report**.**

The following text summarizes our review of these documents and imposes conditions upon the applicant/developer which shall be implemented in assuring that critical area resources are protected:

I. REVIEW

White Salmon Municipal Code (WSMC) Chapter 18.10 Critical Areas Ordinance

WSMC 18.10.113 – Designation of critical areas.

A. The city has designated critical areas by defining their characteristics. The applicant shall determine and the city shall verify, on a case-by-case basis, in accordance with the definitions in this Section 18.10.1[13], whether a critical area exists and is regulated under this chapter, on or in close proximity to, the subject property that would require a setback or buffer required under this chapter.

B. The following resources will assist in determining the likelihood that a critical area exists. These resources may not identify all critical areas and should only be used as a guide. Actual field observations shall supersede information in these resources.

Response: There are two types of critical areas that have been identified on site, regulated under the White Salmon Municipal Code (WSMC): Fish and Wildlife Habitat Conservation Areas and Geologically Hazardous Areas.

According to the Washington Department of Fish and Wildlife (WDFW) Priority Habitat Species (PHS) mapping, Oregon White Oak, a priority habitat, is located on site. PHS also identified priority species that may be on site, including the California Mountain Kingsnake, Mule/Black-Tailed Deer, and Northern Spotted Owl. A senior scientist with AKS conducted a site visit on November 9, 2018 to determine if any of the habitat or species were present on site. The determination was that the California Mountain Kingsnake, Mule/Black-Tailed Deer, and Northern Spotted Owl were not present on site due to limited habitats for these species.

Oregon White Oak woodlands are considered a priority habitat by WDWF if the Oak canopy coverage within a strand of trees is greater than or equal to 25 percent. Site observations by the scientist observed small to medium diameter Oak trees with full canopies along the eastern and southern site boundaries. The applicant submitted an addendum memo to the submitted habitat study/HMP for the project that identified Oak trees on site and their associated drip lines (Exhibit B). Oregon White Oaks with trunk diameters greater than 14 inches are considered heritage trees in White Salmon (WSMC 18.10.317) and require tree protection areas equal to 10 times the trunk diameter of the tree or the average diameter of the area enclosed within the outer edge of the drip line of the canopy, whichever is greater. The protection areas are noted on the Heritage Tree Protection Plan included in the memo and all proposed building areas are outside of these protection areas as well as the heritage tree driplines.

Jewett Creek is located east of the site, at the bottom of a steep (nearly vertical) sided ravine. Jewett Creek is a fish-bearing (Type F) water, which requires a standard 200-foot riparian buffer per WSMC 18.10.312. While the site is separated from Jewett Creek by the steep slope, the 200-foot buffer area still encompasses most of the site.

The short plat application proposes to divide parcel 03113012002400 into two lots (referred to as the north lot and south lot) for the potential future development of two single-family residences on the properties. To account for the riparian buffer area on site, the applicant is requesting a buffer reduction to 150-feet (25 percent), in accordance with WSMC 18.10.313.C.3, to the whole site. Even with the buffer reduction, the riparian buffer still encompasses most of the site. As such, the applicant is requesting a variance in accordance with WSMC 18.10.125.D to allow for (1) encroachment into the reduced buffer by the future residential development and (2) encroachment within the building set back line (18.10.212), which requires a 15-foot building setback from the edge of the buffer. The proposed buffer reduction and variance are addressed in detail in those sections of this report.

The City's adopted critical areas maps show slopes 40 percent and greater covering a majority of the site, rendering the site unbuildable per WSMC 18.10.412.D. However, the submitted geotechnical report states that the site slopes range from seven percent to greater than 40 percent. As part of compiling the geotechnical report, a licensed engineer visited the site on June 15, 2018 and observed site conditions. Per WSMC 18.10.113.B., actual field observations supersede the information in the City's resources and therefore the submitted geotechnical report is assumed to be the most accurate piece of information regarding geologic hazards on site.

The highest elevation of the site (360 feet) is the most northwestern portion, with the site sloping downward west to east. A majority of the site, including the future building areas, are located on slopes less than 15 percent. The outer eastern, southern, and southwestern portions of the parcel are located in the 15 to 40 percent slope range and greater than 40 percent range. White Salmon considers steep slopes as landslide hazards (WSMC 18.10.411), which require a minimum buffer from the edge of the hazard equal to the height of the slope or 50 feet, whichever is greater (WSMC 18.10.414). The applicant is requesting a buffer reduction to 10 feet, in accordance with WSMC 18.10.414.C. Geologic hazards are discussed further in that section of this report.

WSMC 18.10.114 – Applicability.

B. The city of White Salmon shall not approve any development proposal or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first assuring compliance with the requirements of this chapter.

C. Development proposals include proposed activities that require any of the following, or any subsequently adopted permits or required approvals not expressly exempted from these regulations […]

Response: This report reviews the proposed application as it pertains to critical areas and it's consistency with the purpose and requirements of Chapter WSMC 18.10, Critical Areas Ordinance. This critical areas review is associated with the proposed Kalberg short plat application (WS-XXX-XXX).

WSMC 18.10.116 – Submittal requirements.

In addition to the information required for a development permit, any development activity subject to the provisions of this chapter may be required to submit a critical areas report as described under Section 18.10.200 General Provisions. These additional requirements shall not apply for an action exempted in Section 18.10.125.

Response: Critical areas reports for geologic hazards and fish and wildlife habitat conservation areas, including a habitat study/HMP and addendum memo, were submitted with the application and are reviewed in this report.

WSMC 18.10.117 – Bonds of performance security.

A. Prior to issuance of any permit or approval which authorizes site disturbance under the provisions of this chapter, the city shall require performance security to assure that all work or actions required by this chapter are satisfactorily completed in accordance with the approved plans, specifications, permit or approval conditions, and applicable regulations and to assure that all work or actions not satisfactorily completed will be corrected to comply

with approved plans, specifications, requirements, and regulations to eliminate hazardous conditions, to restore environmental damage or degradation, and to protect the health safety and general welfare of the public.

B. The city shall require the applicant to post a performance bond or other security in a form and amount acceptable to the city for completion of any work required to comply with this code at the time of construction. If the development proposal is subject to mitigation, the applicant shall post a performance bond or other security in a form and amount deemed acceptable by the city to cover long term monitoring, maintenance, and performance for mitigation projects to ensure mitigation is fully functional for the duration of the monitoring period.

C. The performance bond or security shall be in the amount of one hundred twenty-five percent of the estimated cost of restoring the functions and values of the critical area at risk.

D. The bond shall be in the form of irrevocable letter of credit guaranteed by an acceptable financial institution, with terms and conditions acceptable to the city or an alternate instrument or technique found acceptable by the city attorney.

E. Bonds or other security authorized for mitigation by this section shall remain in effect until the city determines, in writing, that the standards bonded have been met. Bonds or other security for required mitigation projects shall be held by the city for a minimum of five years to ensure that the mitigation project has been fully implemented and demonstrated to function. The bond may be held for longer periods upon written finding by the city that it is still necessary to hold the bond to ensure the mitigation project has meet all elements of the approved mitigation plan.

F. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the law or condition.

H. Any funds recovered pursuant to this section shall be used to complete the required mitigation.

Response: As a Condition of Approval, prior to site disturbance including vegetation removal, the applicant shall post a performance bond or other security measure to the City for completion of any work and mitigation (including long-term monitoring, maintenance, and performance standards) required to comply with this code and any conditions of this report at the time of construction. The bond or security shall be in the amount of 125 percent of the estimated cost of implementing the riparian habitat management plan and

mitigation plantings specified in the AKS Critical Areas Study and Habitat Management Plan addendum memo. The bond shall be in the form of an irrevocable letter of credit.

A maintenance and monitoring plan were included with the submitted habitat study/HMP.

WSMC 18.10.118 – Native growth protection easement/critical area tract.

A. As part of the implementation of approved development applications and alterations, critical areas and their buffers that remain undeveloped pursuant to this chapter, in accordance with the Section 18.10.200 General Provisions shall be designated as native growth protection easements (NGPE). Any critical area and its associated buffer created as compensation for approved alterations shall also be designated as an NGPE.

B. When the subject development is a formal subdivision, short subdivision (short plat), binding site plan, site plan/design review, master site plan, or planned unit development (PUD), critical areas and their buffers shall be placed in a critical areas tract in addition to being designated as a NGPE, as described in the Section 18.10.200, General Provisions, of these regulations.

C. The requirement that a critical area tract be created may be waived by the city if it is determined that all or the critical majority of a NGPE will be contained in a single ownership without creation of a separate tract.

Response: The applicant is proposing to subdivide a parcel into two lots, assuming two subsequent owners for building individual single-family residential units. Riparian and geologic hazard buffer areas will remain undeveloped on both lots, apart from the proposed encroachment into the riparian buffer area on both lots. WSMC 18.10.118.B. states that when the subject development is a short plat, buffers would need to also be placed in a critical areas tract. However, per 18.10.215.A., the responsibility for maintaining tracts shall be held by a homeowners association (HOA). Staff finds that it would be unreasonable for two future property owners to create an HOA to maintain a critical areas tract; therefore, staff finds that an NGPE will sufficiently protect the riparian area and geologic hazard buffer in this case. NGPEs, including required conditions of approval, are addressed further in that section of this report.

WSMC 18.10.119 - Notice on title.

A. To inform subsequent purchasers of real property of the existence of critical areas the owner of any real property containing a critical area or buffer on which a development proposal is submitted and approved shall file a notice with the city for review and approval as to form and content prior to recording the notice with the county.

The notice shall state:

1. *The presence of the critical area or buffer on the property;*
2. *The use of this property is subject to the "Title"; and*

3. That limitations on actions in or affecting the critical area and/or buffer may exist.

The notice shall run with the property and will be required whether the critical area is kept in a single ownership or is isolated in a separate critical area tract.

C. The applicant shall submit proof that the notice has been filed for public record prior to building permit approval or prior to recording of the final plat in the case of subdivisions.

Response: As a Condition of Approval, the applicant shall file notice with the City for review and approval of content prior to recording the notice with Klickitat County. The notice shall address all criteria highlighted in WSMC 18.10.119.A.1-3.

WSMC 18.10.120 - Inspection and right of entry.

The city or its agent may inspect any development activity to enforce the provisions of this chapter. The applicant consents to entry upon the site by the city or its agent during regular business hours for the purposes of making reasonable inspections to verify information provided by the applicant and to verify that work is being performed in accordance with the approved plans and permits and requirements of this chapter.

Response: As a Condition of Approval, the applicant shall consent to allow entry by the City or City's agent, during regular business hours, for any inspection purposes relating to the proposed development activity to ensure accordance with any approved plans and permits of WSMC Chapter 18.10.

WSMC 18.10.121 - Enforcement.

A. The provisions of White Salmon Municipal Code shall regulate the enforcement of these critical areas regulations.

B. Adherence to the provisions of this chapter and/or to the project conditions shall be required throughout the construction of the development. Should the city or its agent determine that a development is not in compliance with the approved plans, a stop work order may be issued for the violation.

C. When a stop work order has been issued, construction shall not continue until such time as the violation has been corrected and that the same or similar violation is not likely to reoccur.

D. In the event of a violation of this chapter, the city or its agent shall have the power to order complete restoration of the critical area by the person or agent responsible for the violation. If such responsible person or agent does not complete such restoration within a reasonable time following the order, the city or its agent shall have the authority to restore the affected critical area to the prior condition wherever possible and the person or agent responsible for the original violation shall be indebted to the city for the cost of restoration.

Response: As a Condition of Approval, if a violation occurs and a stop work order has been issued, construction shall not continue until said violation has been corrected and assurances have been put into place that the same or similar violation is not likely to reoccur.

As a Condition of Approval, if a violation occurs, the City or its agent shall have the power to order complete restoration of the critical area by the party responsible for the violation. If said responsible party does not complete the restoration within a reasonable time following the order, as established by the City, the City or its agent shall restore the affected critical area to the prior condition and the party responsible shall be indebted to the City for the cost of restoration.

WSMC 18.10.125 - Exceptions.

D. Variance Criteria to Provide Reasonable Use. Where avoidance of the impact in wetlands, streams, fish and wildlife habitat and critical aquifer recharge areas is not possible, a variance may be obtained to permit the impact. Variances will only be granted on the basis of a finding of consistency with all the criteria listed below. The hearing examiner shall not consider the fact the property may be utilized more profitably.

1. The variance shall not constitute a grant of special privilege inconsistent with the limitation on use of other properties similarly affected by the code provision for which a variance is requested;

2. That such variance is necessary to provide reasonable use of the property, because of special circumstances and/or conditions relating to the size, shape, topography, sensitive areas, location, or surroundings of the subject property, to provide it with those relative rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located. The phrase "relative rights and privileges" is to ensure that the property rights and privileges for the subject property are considered primarily in relation to current city land-use regulations;

3. That the special conditions and/or circumstances identified in subsection 2 of this section giving rise to the variance application are not self-created conditions or circumstances;

4. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property, neighborhood, or improvements in the vicinity and zone in which subject property is situated;

5. That the reasons set forth in the application and the official record justify the granting of the variance, and that the variance is the minimum variance necessary to grant relief to the applicant;

6. That alternative development concepts in compliance with applicable codes have been evaluated, and that undue hardship would result if strict adherence to the applicable codes is required; and

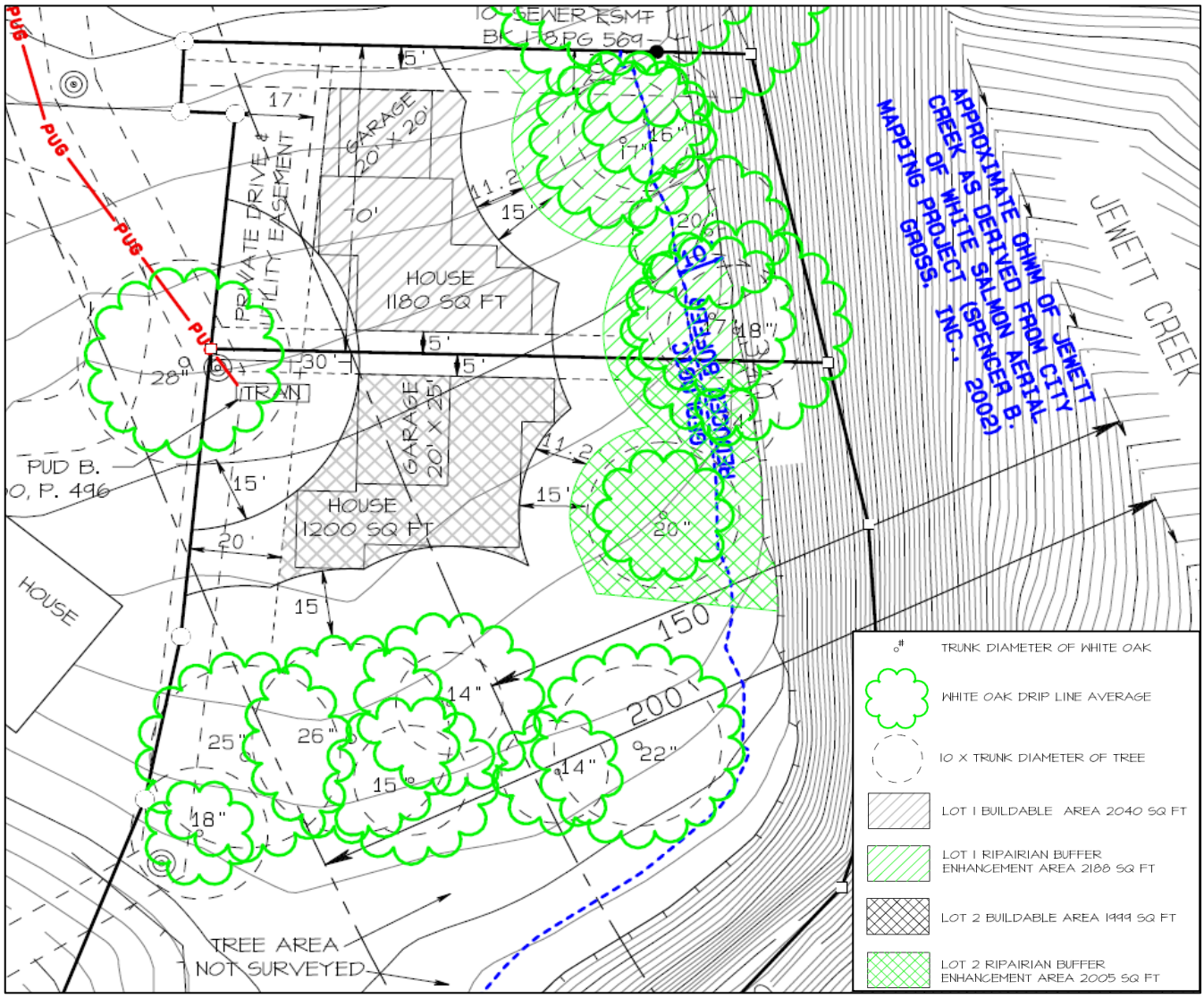
7. That the granting of the variance will not adversely affect implementation of the comprehensive plan or policies adopted thereto and the general purpose and intent of the zoning title or other applicable regulations.

8. WDFW will be notified of any proposed variance to critical areas affecting fish and wildlife sites and habitat areas. The city may require the applicant to demonstrate that WDFW is not willing or able to acquire the property before a variance to fish and wildlife, stream, or wetland conservation areas is approved.

Response: The proposal is to subdivide a parcel into two separate buildable lots. The required 200-foot riparian buffer from the adjacent Jewett Creek covers almost the entire site, including all of the future north lot and more than half of the future south lot. The applicant is requesting a buffer reduction to 150-feet (25 percent), in accordance with WSMC 18.10.313.C.3, to the whole site. Even with this reduction there will not be enough buildable area on both lots to accommodate future single-family homes due to other constraints described below (buffer reduction standards are addressed in that section of this report). As such, the applicant is requesting a variance to allow encroachment into the 150-foot buffer for the future home on both lots as well as encroachment into the required 15-foot building setback from the edge of riparian buffer (WSMC 18.10.212) on both lots.

The variance does not constitute a grant of special privilege inconsistent with the limitation on use of other properties similarly impacted by a riparian buffer. The buffer does not impose a limitation on use for the lots, rather, a denial of all reasonable use of the properties. The site is zoned Single Family Residential (R-1) for the intended purpose of single-family detached dwelling units, which would be the future intended use of the lots subsequent to the short plat approval. The location of Jewett Creek east of the site and the required 150-foot riparian buffer present a condition on the lots that deprive development rights afforded to other R-1 zoned properties. This condition is not a result of any action by the applicant. Figure 1 below portrays the reduced buffer on site and the proposed buffer encroachment on both lots. Also highlighted are the White Oak heritage trees and their driplines, which also require 15-foot building setbacks (WSMC 18.10.317.E.3). The green hatched area represents proposed buffer enhancement area.

Figure 1



The granting of a variance is not expected to be materially detrimental to the public welfare or injurious to the property, neighborhood, or improvements in the vicinity and zone in which the property is situated. According to the submitted habitat study/HMP, the steepness of the ravine separating Jewett Creek from the site provides a physical limitation to onsite riparian habitat functions and values associated with Jewett Creek. In addition, the existing conditions of the buffer encroachment area are described as being in a "degraded condition", as it lacks tree canopy and vegetation, providing minimal functional opportunities to Jewett Creek. To offset this buffer encroachment, the applicant is proposing enhancement to some of the undeveloped buffer area onsite (discussed later in this report). Staff finds that the applicant's proposed riparian buffer enhancement will result in a no net loss of ecological functions since an approximately 4,039-square-foot area of the existing buffer would be impacted, but would be offset at greater than 1:1 impact to mitigation by enhancement of 4,193 square feet. Therefore, the granting of the variance

would not be materially detrimental to the critical area functions of Jewett Creek and the public welfare associated with the protection of riparian areas.

The reasons set forth in the variance request by the applicant highlight desired relief from hardship due to the proximity of the site to Jewett Creek and required buffer, and is the minimum necessary to develop the future intended uses. The maximum lot coverage for the R-1 zone is 50 percent. The proposed total developable area of both lots is only 11 percent of the entire site, which also includes a 17-foot shared private drive/utility easement along the western portion of the north lot and various protected heritage trees and required setbacks from these trees on both lots (see Figure 1). Due to the presence of this easement and the heritage trees, the developable area is closest to the outer portion of the riparian buffer as possible. Therefore, staff finds that development impacts have been minimized.

As mentioned, the granting of the variance is in accordance with the zoning (R-1) as it would allow the development of a single-family home on the north lot. The comprehensive plan designation for the site is also Single Family Residential.

The critical areas application received comments regarding the buffer reduction and buffer encroachment from Luke and Margaret Bradford (Exhibit E). The first comment stated that they do not object to reduction in the riparian buffer from 200 feet to 150 feet, pending review and approval from WDFW. The application was sent to WDFW on July 2, 2019 and Amber Johnson had no comments regarding the buffer reduction or encroachment (Exhibit C). Under WSMC 18.10.313.C.4., the state agency shall be consulted, but the Planning Commission has final decision making authority on the application. The requirement for WDFW consultation has been meet by the City (see response to WDFW comments in WSMC 18.10.313.C.4 section of this staff report).

The second comment from the Bradfords stated that the allowance of a reasonable use variance for the encroachment into the reduced buffer is an unjustified request, does not show hardship, and the proposed development is well outside any reasonable use. For the stated reasons listed above, staff recommends approval of the reasonable use variance. Staff finds that due to development constraints on the site, these conditions deny all reasonable use of the property without a variance. The property, zoned R-1, is intended for single-family development. As mentioned, the site is constrained not only by the riparian buffer, but also from the presence of an easement on site and protected heritage trees. Staff finds this to be a hardship that warrants variance relief. In addition, the applicant is mitigating for impacts to the riparian buffer at a greater than 1:1 ratio and protecting all heritage trees. The applicant's proposed mitigation is enhancement of the degraded buffer that lacks habitat function due to the steepness of the ravine, according to the habitat study.

Staff recommends approval of the requested variance to allow building encroachment into the riparian buffer and within the 15-foot buffer setbacks for buildings, pending implementation of buffer enhancements discussed later in this report.

As a Condition of Approval, The applicant shall provide easement language with the final plat specifying that the access and utility easement is shared with the southern lot.

E. Mitigation Required. Any authorized alteration to a wetland or stream or its associated buffer, or alteration to a fish and wildlife habitat conservation area, as approved under subsections A, B, or C and D of this section, shall be subject to conditions established by the city and shall require mitigation under an approved mitigation plan per [Section 18.10.221].

Response: A mitigation plan is required and was submitted with the application materials. The mitigation plan is and relevant conditions of approval are addressed in Section 18.10.221.

WSMC 18.10.210 – General approach.

Protection of critical areas shall observe the following sequence, unless part of a restoration plan for a significantly degraded wetland or stream buffer, described under [Section 18.10.211], below:

A. Confirm presence and continued function of critical areas. Information about type and location of identified fish and wildlife conservation areas is the most frequently updated information affecting the city. Fish and wildlife inventory maps also contain sensitive information and will not be provided for broad public review. The city will work with the regional WDFW representative to confirm the presence or absence of significant fish and wildlife conservation areas. Timely response by WDFW is expected in accordance with Section 18.10.113;

B. Avoid the impact by refraining from certain actions or parts of an action;

C. Where impact to critical areas or their buffers will not be avoided the applicant shall demonstrate that the impact meets the criteria for granting a variance or other applicable exception as set forth in Sections 18.10.124 and 18.10.125;

D. Minimize the impacts by limiting the degree or magnitude of the action by using affirmative steps to avoid or reduce impacts or by using appropriate technology;

E. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

F. Reduce or eliminate the impact over time by preservation and maintenance operations;

G. Compensate for the impacts by creating, replacing, enhancing, or providing substitute resources or environments.

Response: The applicant has hired experts to study the fish and wildlife habitat conservation areas and geologic hazards on site and to compile reports for these critical areas, which have been included in the application package. As previously discussed, the applicant is requesting a variance for unavoidable impacts into a riparian buffer and building setback; staff has recommended approval of this variance. To mitigate for this impact, the applicant has minimized the degree of the impact by locating proposed development as far west on the site as possible and by compensating through proposed buffer enhancement and a habitat management plan, including performance standards, maintenance, and monitoring (detailed later in this report).

WSMC 18.10.211 – Buffers.

E. Reducing Buffers. The city or its agent may reduce up to twenty-five percent of the critical area buffer requirement unless otherwise stipulated elsewhere in this regulation subject to a critical area study which finds:

1. The applicant has demonstrated avoidance, minimization of impact, and lastly mitigation of impact in that order;

2. The proposed buffer reduction shall be accompanied by a mitigation plan per [Section 18.10.211] that includes enhancement of the reduced buffer area;

3. The reduction will not adversely affect water quality or disrupt a significant habitat area; and

4. The reduction is necessary for reasonable development of the subject property.

Response: The applicant is proposing to reduce the riparian stream buffer on site by 25 percent, from 200 feet to 150 feet. The applicant has submitted a Habitat Management Plan amendment which proposes offsetting the encroachment into the buffer by enhancing undeveloped portions of the buffer at a greater than 1:1 ratio. As previously mentioned, the buffer area on the site is limited as a habitat area and the buffer reduction is necessary for reasonably developing both lots. Water quality and buffer enhancement are discussed elsewhere in this report.

WSMC 18.10.212 – Building set back line (BSBL).

Unless otherwise specified, a minimum BSBL of fifteen feet is required from the edge of any buffer, NGPE, or separate critical area tract, whichever is greater.

Response: Due to the constraints on site previously mentioned, the applicant cannot comply with the required 15-foot building setbacks from the reduced riparian buffer and has therefore requested a variance to encroach in this setback. Compliance with variance standards under WSMC is outlined above.

WSMC 18.10.213 – Land division and property line adjustment.

A. Subdivisions, short subdivisions, boundary line adjustments and planned residential developments of land in or adjacent to critical areas and associated buffers are subject to the following:

C. Land that is partially within a wetland or stream critical area or associated buffer area may be subdivided or the boundary line adjusted provided that an accessible and contiguous portion of each new or adjusted lot is:

1. Located outside the critical area and buffer; and

2. Large enough to accommodate the intended use.

Response: This short plat application proposes to subdivide one parcel into two lots for future single-family residential development. A riparian buffer covers most of the parcel. The applicant is proposing a buffer reduction from 200 feet to 150 feet. Even with the buffer reduction, the lots would not be meeting standards WSMC 18.10.213.C.1-2; as such, the applicant has requested a variance to encroach into the riparian buffer and provide enough area for the future intended use.

WSMC 18.10.214 – Native growth protection easements.

A. As part of the implementation of approved development applications and alterations, critical areas and their buffers shall remain undeveloped and shall be designated as native growth protection easements (NGPE). Where a critical area or its buffer has been altered on the site prior to approval of the development proposal, the area altered shall be restored using native plants and materials.

B. The native growth protection easement (NGPE) is an easement granted to the city for the protection of a critical area and/or its associated buffer. NGPEs shall be required as specified in these rules and shall be recorded on final development permits and all documents of title and with the county recorder at the applicant's expense. The required language is as follows:

> *"Dedication of a Native Growth Protection Easement (NGPE) conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of existing vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The NGPE imposes upon all present and future owners and occupiers of land subject to the easement the obligation, enforceable on behalf of the public of the city of White Salmon, to leave undisturbed all trees and other vegetation within the easement. The vegetation in the easement may not be cut, pruned, covered by fill, removed, or damaged without express permission from the city of White Salmon, which permission must be obtained in writing."*

Response: The site includes undeveloped riparian and steep slopes buffers, and landslide hazard areas. Additionally, each heritage tree on site requires a protection area, generally protected under heritage tree protection easements (HTPEs) WSMC 18.10.317.E.5. Rather than having two types of easements on site for critical areas protection (NGPEs and HTPEs), staff believes that all areas that require protection can be covered under a NGPE, which will encompass riparian and steep slopes buffers, landslide hazard areas, and heritage tree protection areas on site.

As a Condition of Approval, all undeveloped riparian and steep slope buffers, as well as landslide hazard areas and heritage tree protection areas on site shall be designated as native growth protection easements (NGPE) and recorded on the final short plat document and the deeds for each property. The NGPE shall state the presence of the critical area and buffer on the properties, the application of the White Salmon Critical Areas Ordinance to the properties, and the fact that limitations on actions in or affecting the critical area or buffer exist. The NGPE shall "run with the land." Other than the riparian buffer enhancement actions proposed by the applicant in the habitat study/HMP addendum, no other alterations including grading, vegetation clearing, planting of lawns or gardens, or other yard improvements may occur within the NGPE unless another critical areas permit is approved.

WSMC 18.10.216 – Marking and/or fencing.

A. Temporary Markers. The outer perimeter of a wetland, stream, fish and wildlife conservation areas, steep slopes and their associated buffer and the limits of these areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in a manner approved by the city so no unauthorized intrusion will occur. Markers or fencing are subject to inspection by the city or its agent or his designee prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until directed by the city or its agent, or until permanent signs and/or fencing, if required, are in place.

B. Permanent Markers. Following the implementation of an approved development plan or alteration, the outer perimeter of the critical area or buffer that is not disturbed shall be permanently identified. This identification shall include permanent wood or metal signs on treated wood or metal posts, or affixed to stone boundary markers at ground level. Signs shall be worded as follows:

CRITICAL AREA BOUNDARY

"Protection of this natural area is in your care. Alteration or disturbance is prohibited. Please call the city of White Salmon for more information. Removal of this sign is prohibited."

C. Sign Locations. The city or its agent shall approve sign locations during review of the development proposal. Along residential boundaries, the signs shall be at least four inches by six inches in size and spaced one per centerline of lot or every seventy-five feet for lots whose boundaries exceed one hundred fifty feet. At road endings, crossings, and other areas where public access to the critical area is allowed, the sign shall be a minimum of eighteen inches by twenty-four inches in size and spaced one every seventy-[five] feet. Alternate sign type and spacing may be approved by the city if the alternate method of signage is determined to meet the purposes of this section.

D. Permanent Fencing. The city or its agent shall require permanent fencing where there is a substantial likelihood of the intrusion into the critical area with the development proposal. The city or its agent shall also require such fencing when, subsequent to approval of the development proposal; intrusions threaten conservation of critical areas. The city or its

agent may use any appropriate enforcement actions including, but not limited, to fines, abatement, or permit denial to ensure compliance. The fencing may provide limited access to the stream or wetland but shall minimize bank disturbance.

Response: As a Condition of Approval, temporary fencing shall be placed along the outer perimeter of the riparian buffer, landslide hazard area, steep slope buffer, disturbed buffer area, and heritage tree protection area prior to commencement of any permitted development activities. Inspection by the City or its agent shall occur prior to commencement of any permitted development activities. Fencing shall remain throughout construction and shall not be removed until directed by the city or its agent.

WSMC 18.10.217 – Critical areas reports/studies.

A. Timing of Studies. When an applicant submits an application for any development proposal, it shall indicate whether any critical areas or buffers are located on or adjacent to the site. The presence of critical areas may require additional studies and time for review. However, disclosure of critical areas early will reduce delays during the permit review process. If the applicant should disclose there are no known critical areas, further studies may be required for verification.

B. Studies Required.

4. Critical area reports shall be written by a qualified professional, as defined in the definitions section of this chapter. A critical areas report shall include all information required pursuant to Section 18.10.217.[C], below. A monitoring and maintenance program shall be required to evaluate the effectiveness of mitigating measures.

Response: Two critical areas reports by qualified professionals were submitted for this application, studying the two critical areas on site: fish and wildlife habitat conservation areas and geologic hazards. An addendum was included to the habitat management plan that studied heritage tree locations, protection areas, and drip lines. The habitat study/HMP and addendum was compiled by Stacey Reed, PWS, senior wetland scientist, Taya K. MacLean, PWS, senior biologist, and Jessica Imbrie, natural resource specialist of AKS Engineering and Forestry. The geotechnical report was compiled by Devry A. Bell, PE, senior engineer at Bell Design Company.

C. General Critical Areas Report Requirements.

1. A critical areas report shall have three components: a) a site analysis, b) an impact analysis, and c) proposed mitigation measures. More or less detail may be required for each component depending on the size of the project, severity, and potential impacts. The city or its agent may waive the requirement of any component when adequate information is otherwise available.

2. In addition to the specific requirements specified under each critical area, all studies shall contain the following information unless it is already available in the permit application […]

Response: The habitat study/HMP and addendum contains a site analysis, impact analysis, and proposed mitigation measures. The geologic hazards critical areas report provides a site analysis and geotechnical recommendations to implement; no geotechnical impacts are expected. WSMC 18.10.217.C.2 outlines additional informational requirements for each critical area report. Most of this information has been included in the two critical areas reports or the main short plat application. As no residences and associated uses are proposed at this time, some of these items are not relevant to this application.

WSMC 18.10.218 – Mitigation timing.

The buffer for a created, restored, or enhanced critical area as compensation for approved alterations shall be the same as the buffer required for the category of the critical area. For the purposes of restoration, creation, or enhancement, buffers shall be fully vegetated and shall not include lawns, walkways, driveways or other mowed or paved areas. Mitigation shall be completed immediately following disturbances and prior to use or occupancy of the activity or development, or when seasonally appropriate. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and water quality.

Response: Riparian buffer enhancement is proposed on the north and south lots to offset the disturbed buffer area. The existing buffer in this area is described as being in a "degraded condition", as it lacks tree canopy and vegetation, providing minimal habitat function opportunities to Jewett Creek. The existing site is dominated by nonnative grasses and forbs, according to the habitat study/HMP. The applicant has submitted a planting plan as part of the habitat study/HMP addendum and states that plantings should preferably occur between March 1 and May 1 for bare roots and seeds and between September 1 and October 1 for containers.

WSMC 18.10.219 – General mitigation requirements.

The following section provides general mitigation requirements applicable to alteration of critical areas. Additional specific mitigation requirements are found under the sections for the particular type of critical area.

C. Compensation. The goal of compensation is no net loss of critical area/or buffer functions on a development site. Compensation includes replacement or enhancement of the critical area or its buffer depending on the scope of the approved alteration and what is needed to maintain or improve the critical area and/or buffer functions. Compensation for approved critical area or buffer alterations shall meet the following minimum performance standards and shall occur pursuant to an approved mitigation plan:

> *1. The buffer for a created, restored, or enhanced critical area as compensation for approved alterations shall be the same as the buffer required for the category of the created, restored, or enhanced critical area. For the purposes of restoration, creation,*

or enhancement, buffers shall be fully vegetated and shall not include lawns, walkways, driveways and other mowed or paved areas.

2. On-site and In-kind. Unless otherwise approved, all critical area impacts shall be compensated for through restoration or creation of replacement areas that are in-kind, on-site, and of similar or better critical area category. Mitigation shall be timed prior to or concurrent with the approved alteration and shall have a high probability of success.

6. Critical Area Enhancement as Mitigation.

a. Impacts to critical areas may be mitigated by enhancement of existing significantly degraded critical areas only after a 1:1 minimum acreage replacement ratio has been satisfied. Applicants proposing to enhance critical areas must produce a critical areas report that identifies how enhancement will increase the functions and values of the degraded critical areas and how this increase will adequately mitigate for the loss of critical area function at the impact site.

b. At a minimum, enhancement acreage, provided after a 1:1 replacement ratio has been satisfied, shall be double the acreage required for creation acreage under the "on-site" compensation section specified under each critical area. The ratios shall be greater than double the required acreage when the enhancement proposal would result in minimal gain in the performance of critical area functions currently provided in the critical area.

Response: The applicant is proposing to reduce the riparian buffer to 150-feet and encroach into the reduced buffer on both lots. The applicant is proposing to offset the encroachment in portions of the remaining undeveloped buffer area, which has been described as a poor wildlife habitat lacking tree canopy and vegetation, and containing nonnative grasses and forbs. Specifically, the applicant is proposing to install a total of 240 native shrubs (including some within the understory of the existing Oregon white oak canopy) within a total 4,193 square foot enhancement area as part of the habitat study/HMP addendum. The enhancement planting area will provide an increase in habitat functions and values over the existing "degraded" habitat. Timing of the planting enhancement will occur during the optimal planting season (see previous section) and a maintenance and monitoring plan is included in the habitat study/HMP to insure a high probability of success.

The proposed enhancement on both lots surpass the 1:1 required replacement ratio. The proposed enhancement area of the north lot is 2,188 square feet; the developable area on the north lot is roughly 2,040 square feet, equating to a roughly 1.07:1 ratio. The proposed enhancement area of the south lot is 2,005 square feet; the developable area on the south lot is roughly 1,999 square feet, equating to a roughly 1.003:1 ratio (some of this developable area and buffer enhancement is outside of the 150-foot buffer but inside the 200-foot buffer). WSMC 18.10.219.C.6.b. requires additional creation acreage under "on-site" compensation; however, this standard is referring to on-site compensation due to impacts to wetland critical areas and buffers and does not apply to fish and wildlife habitat conservation area buffers.

As a Condition of Approval, the applicant and/or developer shall implement the habitat study/HMP, including performance standards, maintenance and monitoring plan, and contingency plan, as detailed in the Kalberg Property Critical Areas Habitat Study and Habitat Management Plan, dated February 26, 2019 and the amendment to this plan, dated July 23, 2019, including the heritage tree protection plan and riparian buffer enhancement planting specifications.

WSMC 18.10.221 - Mitigation plans

C. At a minimum, the following components shall be included in a complete mitigation plan:

1. Baseline Information. Provide existing conditions information for both the impacted critical areas and the proposed mitigation site as described in "General critical area report requirements" and "Additional report requirements" for each critical area.

2. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

a. A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals, identification of resource functions, and dates for beginning and completing site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area; and

b. A review of the best available science supporting the proposed mitigation.

D. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met. They may include water quality standards, species richness and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.

E. Detailed Construction Plan. These are the written specifications and descriptions of mitigation technique. This plan should include the proposed construction sequencing, grading and excavation details, erosion and sedimentation control features, a native planting plan, and detailed site diagrams and any other drawings appropriate to show construction techniques or anticipated final outcome.

F. Monitoring and/or Evaluation Program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project, as detailed under [Section 18.10.222,] below.

G. Contingency Plan. This section identifies potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates projected performance standards have not been met.

Response: A habitat study/HMP and addendum were submitted with the application package to account for the encroachment into the riparian buffer. The habitat study/HMP describes existing conditions and critical areas on site, as well as performance standards, maintenance and monitoring plans, and a contingency plan (see below). The addendum describes impacts to critical areas, proposed buffer enhancement to offset these impacts, and planting specifications for the buffer enhancements. The report was composed by two qualified senior scientists and a natural resource specialist from AKS. Staff finds that replanting impacted riparian buffers is a common compensatory mitigation method widely used and supported by best available science. No construction is proposed at this time; therefore, no detailed construction plans are included in mitigation plan.

As a Condition of Approval, a detailed construction plan prior to building permit approval shall incorporate the mitigation and planting specifications outlined in the addendum to the habitat study/HMP, dated July 23, 2019, and the performance standards, maintenance and monitoring plan, and the contingency plan outlined in the Kalberg Property Critical Areas Habitat Study and Habitat Management Plan, dated February 26, 2019.

The following performance standards, monitoring and maintenance plan, and contingency plan are proposed in the habitat study/HMP:

> Performance Standards: Enhancement plantings should achieve survival of 90 percent in Year 1 (following the first growing season) and at least 80 percent survival in Years 2 through 5.
>
> Maintenance and Monitoring Plan: Plantings will be maintained and monitored for a minimum of five growing seasons following plant installation. The enhancement area is to be monitored annually by the Applicant between June 1 and September 30 in Years 1, 2, 3, and 5. Monitoring will consist of a count of live and deceased plantings at select plot locations, observations of wildlife use of the enhancement area, maintenance needs, and representative photographs taken across enhancement areas to document mitigation compliance (WSMC 18.10.222).
>
> Annual reporting shall be conducted by the Applicant and shall include a brief memorandum with photographs of the planting area and a discussion of the number of living plants, maintenance actions (irrigation, invasive plant control), and corrective actions (replanting, mulching) that occurred during the monitoring year. Success will be achieved when monitoring results indicate that performance standards are being met at the end of the five year monitoring period. Monitoring reports will be submitted to the City by November 1 following the growing seasons of Years 1, 2, 3, and 5.
>
> Routine maintenance of the site is necessary to ensure the integrity and success of enhancement plantings. If mortality occurs, the factor likely to have caused mortality of the plantings is to be determined and corrected if possible. Any dead plants shall be replaced and other corrective measures, such as species substitutions, mulching or irrigation, shall be implemented as needed.

Contingency Plan: The Applicant will be the responsible party for the implementation of management activities during the monitoring period, including any corrective measures taken when monitoring indicates project performance standards are not being met. Specific maintenance and management activities will be identified based on the results of each annual monitoring visit. Contingency measures may include additional or substitute plantings, irrigation, browse protection, or other measures developed to ensure success of the mitigation project.

The standards of this section are met.

WSMC 18.10.222 – Monitoring

A. The city will require long-term monitoring of development proposals where alteration of critical areas or their buffers are approved. Such monitoring shall be an element of the required mitigation plan and shall document and track impacts of development on the functions and values of critical areas, and the success and failure of mitigation requirements. Monitoring may include, but is not limited to […]

Response: The applicant is proposing to count live and deceased plantings at select plot locations, observe wildlife use of the enhancement area, maintenance needs, and representative photograph taking across enhancement areas to document mitigation compliance. Plantings will be maintained and monitored for a minimum of five growing seasons following plant installation. The enhancement area is to be monitored annually by the applicant between June 1 and September 30 in Years 1, 2, 3, and 5. This standard is met.

WSMC 18.10.223 - Contingencies/adaptive management

When monitoring reveals a significant deviation from predicted impacts or a failure of mitigation measures, the applicant shall be responsible for appropriate corrective action. Contingency plans developed as part of the original mitigation plan shall apply, but may be modified to address a specific deviation or failure. Contingency plan measures shall be subject to the monitoring requirement to the same extent as the original mitigation measures.

Response: As mentioned, the applicant has a contingency plan for plantings and a condition has been made that requires the applicant/developer to follow that plan.

As a Condition of Approval, if a specific deviation or failure occurs that is not covered in the proposed contingency plan, modification measures shall be implemented to address the specific deviation or measure subject to the same monitoring requirements of the original contingency mitigation measures. The modification measures shall be submitted to the City as part of required monitoring plans.

WSMC 18.10.224 - Habitat management plans

A habitat management plan shall be required by the city when the critical area review of a development proposal determines that the proposed activity will have an adverse impact on wetland, stream, and fish and wildlife habitat conservation area critical areas.

A. A habitat management plan, prepared by a qualified biologist in consultation with WDFW, shall address the following mitigation measures:

1. Reduction or limitation of development activities within the critical area and buffers;

2. Use of low impact development techniques or clustering of development on the subject property to locate structures in a manner that preserves and minimizes the adverse effects to habitat areas;

3. Seasonal restrictions on construction activities on the subject property;

4. Preservation and retention of habitat and vegetation on the subject property in contiguous blocks or with connection to other habitats that have a primary association with a listed species;

5. Establishment of expanded buffers around the critical area;

6. Limitation of access to the critical area and buffer; and

7. The creation or restoration of habitat area for listed species.

Response: An habitat study/HMP and addendum were submitted with the application package to account for the encroachment into the riparian buffer. While encroachment is occurring, the developable area on the lots is minimized due to the existing buffer and other constraints; the proposed developable area is a 4,039 square foot developable area compared to a 36,155 square foot total site area. Mitigation measures to the entire site include enhancing 4,193 square feet of riparian buffer area with 240 native shrubs. The proposed enhancement will result in a not net loss of ecological functions of the existing buffer area. The enhanced buffer on the site will be put into easements and connect to the rest of the undeveloped buffer of Jewett Creek. While habitat functions will increase on site due to buffer enhancement, habitat functions on site are mostly limited due to the steep ravine separating Jewett Creek and the site.

WSMC 18.10.300 - FISH AND WILDLIFE HABITAT CONSERVATION AREAS.

18.10.311 - Designation.

A. For purposes of these regulations fish and wildlife conservation areas are those habitat areas that meet any of the following criteria:

1. Documented presence of species listed by the federal government or the state of Washington as endangered, threatened, and sensitive species; or

2. Sites containing and located within three hundred feet of habitat for priority habitat species as listed and mapped by WDFW including: […]

3. Priority habitats mapped by WDFW including: […]

4. All streams which meet the criteria for streams set forth in WAC 222-16-030 and based on the interim water typing system in WAC 222-16-031.

5. Heritage tree sites.

B. All areas within the city meeting one or more of the above criteria, regardless of any formal identification, are designated critical areas and are subject to the provisions of this chapter. The approximate location and extent of known fish and wildlife habitat conservation areas are shown on the critical area maps kept on file at the city. Wildlife data is sensitive, changes, and protection requirements vary depending on specific site and area characteristics. WDFW will be consulted to verify the presence of critical habitat areas. Access to the maps will be limited to a need to know basis for individual project proposals, due to the sensitivity of the information in the maps.

Response: According to the WDFW PHS mapping tool, the California Mountain Kingsnake, Mule/Black-Tailed Deer, and Northern Spotted Owl, all priority species, may exist on site. A senior scientist with AKS conducted a site visit on November 9, 2018 and determined that none of these species were present due to limited habitat conditions.

Oregon White Oak woodlands are considered a priority habitat by WDWF if the Oak canopy coverage within a strand of trees is greater than or equal to 25 percent. Site observations by the scientist observed small to medium diameter Oak trees with full canopies along the eastern and southern site boundaries. The applicant submitted an addendum memo to the submitted habitat management plan for the project that identified Oak trees on site and their associated drip lines (Exhibit B). Oregon White Oaks with trunk diameters greater than 14 inches are considered heritage trees in White Salmon (WSMC 18.10.317) and require tree protection areas equal to 10 times the trunk diameter of the tree or the average diameter of the area enclosed within the outer edge of the drip line of the canopy, whichever is greater, and 15-foot building setbacks. The protection areas and setbacks are noted on the Heritage Tree Protection Plan included in the memo and all proposed building areas are outside of these protection areas and setbacks, as well as the heritage tree driplines. Heritage tree standards are addressed below.

Jewett Creek is located east of the site, at the bottom of a steep sided ravine. Jewett Creek is a fish-bearing (Type F) water, which requires a standard 200-foot riparian buffer per WSMC 18.10.312.

18.10.312 - Buffers.

A. Riparian Habitat.

1. Inventoried creeks in White Salmon city limits and urban growth boundary include White Salmon River, Columbia River, Jewett Creek, and Dry Creek. The following buffers are the minimum requirements for streams. All buffers shall be measured from the ordinary high water mark (OHWM).

Response: As mentioned, Jewett Creek is a Type F water, requiring a buffer width of 200 feet. The applicant is requesting a 25% reduction of the 200-foot standard buffer on the north and south lots and a variance to impact the reduced 150-foot buffer as discussed in relevant sections of this staff report.

18.10.313 - General performance standards.

The requirements provided in this subsection supplement those identified in Section 18.10.200 General Provisions. All new structures and land alterations shall be prohibited from habitat conservation areas, except in accordance with this chapter. Additional standards follow:

A. No development shall be allowed within a habitat conservation area or any associated buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

B. Whenever development is proposed adjacent to a fish and wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such areas shall be protected through the application of protection measures in accordance with a critical areas report prepared by a qualified professional and approved by the city or its agent. WDFW should be consulted to provide a technical review and an advisory role in defining the scope of the habitat study.

Response: Development is proposed encroaching in a riparian buffer. According to the habitat study/HMP, two anadromous fish species are documented as occurring in Jewett Creek. The portion of the creek adjacent to the project site is mapped as providing Coho salmon spawning and rearing, as well as Steelhead trout spawning, and rearing habitat during both winter and summer seasons; both species are federally and state protected species. Oregon white oak trees are present along the top of the ravine in the riparian buffer. The applicant is applying for a reasonable use variance for encroaching into the buffer and proposing to enhance undeveloped buffer area to offset the encroachment. As highlighted in the habitat study/HMP, riparian habitat functions on site are mostly limited due to the steep ravine separating Jewett Creek and the site. Oregon white oak trees along with their driplines will be protected on site

C. Habitat Study. Development proposals or alterations adjacent to and within three hundred feet of a fish and wildlife habitat conservation area shall prepare, and submit, as part of its critical areas study, a habitat study which identifies which, if any, listed species are using that fish and wildlife habitat conservation area. If one or more listed species are using the fish and wildlife habitat conservation area, the following additional requirements shall apply:

3. The two hundred-foot buffer from "S" and "F" type streams may be adjusted down to one hundred fifty feet in specific instances with no additional review and with the concurrence of WDFW. Further modification or adjustment of buffer widths when a narrower buffer is sufficient to protect specific stream functions and values in a specific location may be achieved in consultation with WDFW subject to additional review of critical areas report and habitat study.

Response: The habitat study/HMP concluded that some of listed species identified on site by the WDFW PHS mapping tool do not actually exist on site due to poor existing habitat qualities and the steep ravine separating the site and Jewett Creek to the east. Oregon white oaks do exist on site and Coho salmon and Steelhead trout utilize Jewett Creek for spawning and rearing. The applicant is proposing to decrease the buffer down to 150 feet to reasonably accommodate a future home on the south lot. Staff recommends approval of this buffer reduction due to the poor habitat qualities of the site and the ability to place a single-family home on the south lot without encroaching into a buffer area.

4. Approval of alteration of land adjacent to the habitat conservation area, buffer or any associated setback zone shall not occur prior to consultation with the state department of fish and wildlife and the appropriate federal agency.

Response: All of the application materials were sent to the Washington Department of Fish and Wildlife (WDFW) for their review and comments on July 2, 2019. Amber Johnson with WDFW had specific comments pertaining to the submitted habitat study/HMP regarding requiring financial assurances to ensure the successful implementation of the habitat study/HMP and requiring monitoring reports on a regular basis after the work has been completed (Exhibit C).

Conditions of approval within this staff report have addressed these two issues. The applicant has been conditioned to post a performance bond or other security measure to the City for completion of any work and mitigation prior to site disturbance and vegetation removal. According to the habitat study/HMP, monitoring reports will be submitted to the City by November 1 following the growing seasons of years 1, 2, 3, and 5. The applicant has been conditioned to adhere to this schedule and the monitoring plan included in the habitat study/HMP.

D. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

Response: Only native plantings are proposed, as outlined in the addendum of the habitat study/HMP. A condition of this report is requiring adherence to this native planting plan.

F. The city or its agent shall condition approval of activities allowed adjacent to a fish and wildlife habitat conservation area or its buffer, as necessary, per the approved critical area report and habitat management plan to minimize or mitigate any potential adverse impacts. Performance bonds as defined by this chapter may also be made a condition of approval in accordance with the provisions of this chapter.

Response: Conditions of approval are outlined throughout this report and summarized at the end, including required bonds of performance security.

18.10.314 - Special provisions—Streams.

The requirements provided in this section supplement those identified in Section 18.10.200 General Provisions.

A. Type S and F Streams. Activities and uses shall be prohibited in Type S and F streams except as provided for in Sections [18.10.100] Administration, and the allowable activities and uses listed below […]

3. Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers shall apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any stream channel unless the corridor is outside the buffer, and crossings shall be minimized. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body where feasible. Crossings shall be contained within the existing footprint of an existing road or utility crossing where possible. Otherwise, crossings shall be at an angle greater than sixty degrees to the centerline of the channel. The criteria for stream crossing shall also apply.

4. Stormwater facilities provided that they are located in the outer twenty-five percent of the buffer and are located in the buffer only when no practicable alternative exists outside buffer. Stormwater facilities should be planted with native plantings where feasible to provide habitat, and/or less intrusive facilities should be used. Detention/retention ponds should not be located in the buffer.

Response: The applicant is proposing a utilities and access easement within the standard 200-foot buffer area on the north lot and parallel to Jewett Creek. However, the easement will be outside the buffer area subject to approval of the variance; therefore staff finds this standard is met. No stormwater facilities are proposed at this time.

As a Condition of Approval, utilities shall not be located outside of the proposed developable areas for each proposed lot.

As a Condition of Approval, with the exception of tightline drainage over the slope, stormwater facilities shall only be allowed in the buildable areas and utility easement as designated on the "Buildable Area Plan Heritage Tree Protection Plan" submitted with the habitat study/HMP addendum.

18.10.316 - Native growth protection easement/critical area tract.

A. An NGPE as defined in Section 18.10.200 General Provisions shall be designated for Type S and F streams when located within one-quarter mile of a stream with salmonids, unless the city or its agent has waived the NGPE requirements (see below), or where the alteration section expressly exempts Type N streams, when beyond one-quarter mile of a stream with

salmonids, from an NGPE. Where a stream or its buffer has been altered on the site prior to approval of the development proposal as a result of the development proposal, the area altered shall be restored using native plants and materials. The restoration work shall be done pursuant to an approved mitigation plan.

Response: According to the habitat study/HMP, a portion of the creek adjacent to the project site is mapped as providing Coho salmon and Steelhead trout spawning and rearing. Staff is requiring the applicant to place stream buffers on site in NGPEs. The buffer on both lots will be encroached upon with some buffer enhanced on site, in accordance with the habitat study/HMP addendum.

18.10.317 – Special Provisions – Heritage Trees

A. The requirements provided in this section supplement those identified in Section 18.10.200 General Provisions. All heritage trees qualifying for protection provide valuable local habitat and shall be protected as critical areas. The tree protection area shall be equal to ten times the trunk diameter of the tree or the average diameter of the area enclosed within the outer edge of the drip line of the canopy, whichever is greater.

B. Heritage trees include:

1. Oregon White Oaks with a trunk diameter larger than fourteen inches,

Response: The applicant has identified various Oregon White Oaks on site with trunk diameters larger than 14-inches (see habitat study/HMP addendum, Exhibit B); classified as heritage trees under this code section. Per the heritage tree protection plan outlined in the addendum, each heritage tree has a protection area delineated and all proposed developable areas are outside of these protection areas, as well as the driplines.

E. Maintenance and preservation of heritage trees is required.

1. Any owner or applicant shall use reasonable efforts to maintain and preserve all heritage trees located thereon in a state of good health pursuant to the provisions of this chapter. Failure to do so shall constitute a violation of this chapter. Reasonable efforts to protect heritage trees include:

a. Avoidance of grading, excavation, demolition or construction activity within the heritage tree protection area where possible. The city shall consider special variances to allow location of structures outside the building setback line of a heritage tree whenever it is reasonable to approve such variance to yard requirements or other set back requirements.

b. Grading, excavation, demolition or construction activity within the heritage tree protection area shall require submittal of a tree protection plan, prepared in accordance [with] applicable guidelines for a critical area report and habitat management plan per Section 18.10.200, General Provisions.

Response: According to the submitted heritage tree protection plan, all heritage trees will be preserved and their protection areas will be outside of the proposed developable areas. All heritage trees on site are outside the required 15-foot building setback.

As a Condition of Approval, no grading, excavation, demolition or construction activity shall occur within the heritage tree protection area. If any grading, excavation, demolition, or construction activity is proposed within any heritage tree protection area, a tree protection plan shall be prepared in accordance with the applicable guidelines for a critical areas report and habitat management plan per Section 18.10.200, and a critical areas permit shall be obtained, prior to the issuance of any permit for grading or construction in the protection area.

2. The critical area report for purpose of this section shall include a heritage tree protection plan and shall be prepared by a certified arborist. The plan shall address issues related to protective fencing and protective techniques to minimize impacts associated with grading, excavation, demolition and construction. The city may impose conditions on any permit to assure compliance with this section. (Note: Some provisions in section 18.10.200, such as 18.10.211 Buffers, 18.10.214 Native growth protection easement, 18.10.215 Critical areas tracts, and 18.10.216 Marking and/or fencing requirements; may not be applicable to protection areas for heritage trees.)

Response: A heritage tree protection plan was prepared and included in the addendum to the habitat study/HMP, although it was not prepared by a certified arborist. However, a heritage tree protection plan is not required as all development activities are proposed outside of the heritage tree protection areas. Protective fencing measures and other techniques were not included in this plan. The applicant has been conditioned to provide protective fencing around the outer edge of the heritage tree protection area prior to commencement of any permitted development activities.

3. Building set back lines stipulated by subsection 18.10.212 shall be measured from the outer line of the tree protection area for heritage trees.

Response: WSMC 18.10.212 requires 15-foot building setback lines from the edge of a buffer (in this case tree protection area). As shown on the heritage tree protection plan, all proposed developable areas are set back 15-feet from the heritage tree's protection area. This standard is met.

4. Review and approval of the critical areas report and tree protection plan by the city is required prior to issuance of any permit for grading or construction within the heritage tree protection area.

Response: No work is proposed within the heritage tree protection areas. The applicant has been conditioned to complete a critical areas report and tree protection plan if any work does occur within a tree protection area.

5. In lieu of the NGPE required in subsection 18.10.214, a heritage tree protection easement (HTPE) shall be required. A HTPE is an easement granted to the city for the protection of a heritage tree protection area. HTPEs shall be required as specified in these

rules and shall be recorded on final development permits and all documents of title and with the county recorder at the applicant's expense. The required language is as follows: […]

Response: Most of the heritage trees on site are contained within the riparian buffer, protected by a NGPE. As such, the applicant has been conditioned to extend the NGPE on site to include any heritage tree protection areas that aren't already protected with a NGPE, rather than have two types of easements on the lots.

18.10.318 - Critical areas report.

A critical areas report for fish and wildlife habitat conservation areas shall be prepared by a qualified biologist with experience analyzing aquatic and/or wildlife habitat and who has experience preparing reports for the relevant type of critical area. The city will ask the applicant to provide a scope describing the methodology of the study and the expected content of the report and mitigation plan. If provided, the scope will be forwarded to WDFW to help ensure the adequacy of work done relative to the extent of the habitat concerns present. WDFW will respond as they are able. City will not rely solely on WDFW review of report scope. Notice will be provided in the interest of ensuring consultant work proposed is in line with agency expectations.

A. In addition to the requirements of Section 18.10.200 General Provisions, critical area reports for wildlife habitat areas shall include the following additional information:

a. An assessment of habitats including the following site and proposal related information;

b. Identification of any species of local importance; priority species; or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

c. A discussion of any federal, state, or local species management recommendations, including the state department of fish and wildlife habitat management recommendations, that have been developed for species or habitat located on or adjacent to the project area.

B. A critical areas report for streams shall include the following information:

1. On the site map:

a. The location of the ordinary high water mark;

b. The toe of any slope twenty-five percent or greater within twenty-five feet of the ordinary high water mark;

c. The location of any proposed or existing stream crossing;

2. In the report:

a. Characterization of riparian (streamside) vegetation species, composition, and habitat function;

b. Description of the soil types adjacent to and underlying the stream, using the Soil Conservation Service soil classification system;

c. Determination of the presence or absence of fish, and reference sources; and

d. When stream alteration is proposed, include stream width and flow, stability of the channel including erosion or aggradation potential, type of substratum, discussions of infiltration capacity and biofiltration as compared to the stream prior to alteration, presence of hydrologically linked wetlands, analysis of fish and wildlife habitat, and proposed floodplain limits.

Response: A critical areas habitat study/HMP was established for the project, along with an addendum studying Oak tree locations and protection areas on site. The study included an assessment of the existing habitat and suitability for different species that were identified as possibly existing on site from the WDFW PHS mapping tool. Due to the lack of existing habitat features on site and the steep slopes of the ravine separating the site and Jewett Creek, it was concluded that the site was not suitable for these identified species. Soil types, the characterization of the existing vegetation and habitat functions, and the ordinary high water mark (OHWM) are provided. No stream crossings or stream alterations are proposed.

Staff finds the submitted critical areas habitat study/HMP and addendum sufficient for reviewing fish and wildlife habitat conservation areas on site.

WSMC 18.10.400 - GEOLOGICALLY HAZARDOUS AREAS.

18.10.411 - Designation.

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but may also increase the hazard to surrounding development and uses. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas:

A. Erosion hazard. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) as having "severe" or "very severe" rill and inter-rill erosion hazard.

B. Landslide hazard (including steep slopes). Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors.

C. Seismic hazard. Seismic hazard areas are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface failure. The strength of ground shaking is primarily affected by:

1. The magnitude of an earthquake;

2. The distance from the source of an earthquake;

3. The type and thickness of geologic materials at the surface;

4. The type of subsurface geological structure.

D. Other geological events including, mass wasting, debris flows, rock falls, and differential settlement.

Response: A majority of the site is located on slopes less than 15 percent. The outer eastern, southern, and southwestern portions of the parcel are located in the 15 to 40 percent slope range and greater than 40 percent range. White Salmon considers steep slopes as landslide hazards. No other geologic hazard exists on site.

18.10.412 - Prohibited development and activities.

A. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and associated buffers.

B. Pipelines containing hazardous substances (i.e., petroleum) are prohibited in geologically hazardous areas.

C. Slopes between fifteen and forty percent are generally considered buildable, however, the city or its agent may require an applicant to provide substantial evidence that a slope between fifteen and forty percent is geologically stable if there is evidence that similarly situated slopes have demonstrated substantial instability in the past.

D. Lands with slopes of forty percent or greater are considered unbuildable and development is not allowed.

Response: No on-site sewage, drain fields, or pipelines containing hazardous substances are proposed. Slopes of 15-40 percent and greater than 40 percent are located on the outer eastern, southern, and southwestern portions of the site. According to the submitted geotechnical report, the proposed developable areas are located outside of these slope area on portions of the site with 7-10 percent slopes. However, no developable areas or building footprints are shown on the slope maps provided in the geotechnical report.

18.10.413 - Performance standards.

A. All projects shall be evaluated to determine whether the project is proposed to be located in a geologically hazardous area, the project's potential impact on the geologically hazardous area, and the potential impact on the proposed project. The city or its agent may require the preparation of a critical area report to determine the project's ability to meet the performance standards.

B. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

1. The city determines no other feasible alternative route or location exists.

2. Will not increase the threat of the geological hazard to or need for buffers on adjacent properties beyond pre-development conditions;

3. Will not adversely impact other critical areas;

4. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

5. Are certified as safe as designed and under anticipated conditions by a qualified geotechnical engineer or geologist, licensed in the state of Washington.

Response: The Geologically Hazardous Critical Area Report for Robert Kalberg was prepared for the site on June 20, 2018 by Bell Design Company. Steep slopes exist on site, which require a minimum buffer equal to the height of the slope, or 50 feet, whichever is greater (WSMC 18.10.414.B). The applicant is proposing to reduce the buffer to ten feet, allowed per WSMC 18.10.414.C., when a qualified professional demonstrates that the reduction will adequately protect the proposed development, adjacent development, and the critical area. The geotechnical report states that the minimum buffer can be reduced to ten feet from the top of slope and still protect slopes along the bluff and that additional geotechnical study may apply for building in the ten foot buffer area, if desired. Staff recommends allowing the reduced slope buffer.

The geotechnical report concluded that the site is suitable for buildings with little additional risk of landslides or erosions and that there will be little additional risk to the safeguard of life, limb, health, property, or public welfare provided that the outlined geotechnical recommendations are implemented (see the design standards (WSMC 18.10.415) below.

As a Condition of Approval, the geotechnical engineer who authored the Geologically Hazardous Critical Area Report for Robert Kalberg will need to provide a current, dated stamp documenting that they are a licensed engineer in the State of Washington prior to approval of building permits.

18.10.414 - Special provisions—Erosion and landslide areas.

Activities on sites containing erosion or landslide hazards shall meet the following requirements:

A. Buffers required. A buffer shall be established for all edges of erosion or landslide hazard areas. The size of the buffer shall be determined by the city or its agent to eliminate or minimize the risk of property damage, death, or injury resulting from erosion and landslides caused in whole or part by the development, based upon review of and concurrence with a critical areas report prepared by a qualified professional.

B. Minimum buffers. The minimum buffer shall be equal to the height of the slope, or fifty feet, whichever is greater.

C. Buffer reduction. The buffer may be reduced to a minimum of ten feet when a qualified professional demonstrates to the city or its agent's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and, uses and the subject critical area.

D. Increased buffer. The buffer may be increased when the city or its agent determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

E. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geotechnical analysis is submitted and certifies that:

1. The development will not increase surface water discharge or sedimentation to adjacent properties beyond the pre-development condition;

2. The development will not decrease slope stability on adjacent properties; and

3. Such alteration will not adversely impact other critical areas.

Response: As previously stated, the applicant is proposing a reduction of the required steep slope buffer to ten feet. A condition is included if the applicant is building in the slope buffer to update their geotechnical analysis to address the alterations to buffer standards listed above and the design standards of WSMC 18.10.415.

18.10.415 - Design standards—Erosion and landslide hazard areas.

Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this chapter. The requirements for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

A. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;

B. Structures and improvements shall minimize alterations to the natural contours of the slope and foundations shall be tiered where possible to conform to existing topography;

C. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

D. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

E. The use of a retaining wall that allows the maintenance of existing natural slopes are preferred over graded artificial slopes; and

F. Development shall be designed to minimize impervious lot coverage.

Response: The applicant is proposing to develop outside of landslide hazard areas and buffers. Conditions have been included if development is proposed in landslide hazard areas or buffer to comply with the design standards listed above. In addition, the geotechnical report has geotechnical recommendations for safe building development on site, including drainage practices, stormwater setbacks, site clearing, optimal weather conditions for building, and erosion control techniques.

As a Condition of Approval, the applicant and/or developer shall implement all geotechnical recommendations outlined in the Geologically Hazardous Critical Area Report for Robert Kalberg, dated June 20, 2018.

18.10.416 - Native growth protection easement/critical area tract.

As part of the implementation of approved development applications and alterations, geologically hazardous areas and any associated buffers that remain undeveloped pursuant to the critical areas regulations, in accordance with Section 18.10.200 General Provisions, shall be designated as native growth protection easements (NGPE) and critical area tracts as applicable.

Response: A previous condition of approval requires that all landslide hazard areas and the slope buffers on site are placed into NGPEs.

18.10.417 - Critical areas report.

A. When required, a critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrogeologic, and ground water flow systems, and who has experience preparing reports for the relevant type of hazard.

B. In addition to the requirements of Section 18.10.200 General Provisions, critical area reports are required for geologically hazardous areas shall include the following additional information:

1. On the site map:

2. All geologically hazardous areas within or adjacent to the project area or that have potential to be affected by the proposal;

3. The top and toe of slope (Note: these should be located and flagged in the field subject to city staff review);

4. In the report:

a. A geological description of the site;

b. A discussion of any evidence of existing or historic instability, significant erosion or seepage on the slope;

c. A discussion of the depth of weathered or loosened soil on the site and the nature of the weathered and underlying basement soils;

d. An estimate of load capacity, including surface and ground water conditions, public and private sewage disposal system, fill and excavations, and all structural development;

e. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement;

f. A complete discussion of the potential impacts of seismic activity on the site;

g. Recommendations for management of stormwater for any development above the top of slope;

h. A description of the nature and extent of any colluviums or slope debris near the toe of slope in the vicinity of any proposed development; and

i. Recommendations for appropriate building setbacks, grading restrictions, and vegetation management and erosion control for any proposed development in the vicinity of the geologically hazardous areas.

Response: A geotechnical report was submitted for the subject site, compiled by a licensed engineer in the state of Washington. The geotechnical report includes all sloped areas less than 15 percent, between 15 and 40 percent, and greater than 40 percent on site and the top and of the slope. A geologic description of the site and soil qualities are included. Recommendations regarding building limitations, drainage practices, stormwater setbacks, site clearing, optimal weather conditions, and erosion control techniques are included. An estimated load capacity, location of the toe of the slope, and discussion of seismic activity have not been included in the geotechnical report. According to the City's critical areas maps, the site has a no seismic hazards (NEHRP seismic class of "B"; no liquefaction susceptibility due to bedrock).

As a Condition of Approval, prior to the commencement of any approved building activities, the top of slope shall be flagged and inspected by City staff or a City agent for review and approval.

As a Condition of Approval, prior to building permit approval, the applicant shall provide additional information about the load capacity of the site and how the site can accommodate the proposed uses and specific recommendations and best management practices for constructing single-family homes and associated uses on the site in relation to the load capacity.

II. CONCLUSIONS AND RECOMMENDATIONS

Staff finds the applicant has sustained the burden of proving the application complies with the applicable provisions of the White Salmon Critical Areas Ordinance (WSMC 18.10). The subject application should be **Approved, subject to the follow conditions.** The conditions below summarize all of the conditions that have been listed throughout the document:

1. Prior to site disturbance including vegetation removal, the applicant shall post a performance bond or other security measure to the City for completion of any work and mitigation (including long-term monitoring, maintenance, and performance standards) required to comply with this code and any conditions of this report at the time of construction. The bond or security shall be in the amount of 125 percent of the estimated cost of implementing the riparian habitat management plan and mitigation plantings specified in the AKS Critical Areas Study and Habitat Management Plan addendum memo. The bond shall be in the form of an irrevocable letter of credit.
2. As a Condition of Approval, the applicant shall file notice with the City for review and approval of content prior to recording the notice with Klickitat County. The notice shall address all criteria highlighted in WSMC 18.10.119.A.1-3.
3. The applicant shall consent to allow entry by the City or City's agent, during regular business hours, for any inspection purposes relating to the proposed development activity to ensure accordance with any approved plans and permits of WSMC Chapter 18.10.
4. If a violation occurs and a stop work order has been issued, construction shall not continue until said violation has been corrected and assurances have been put into place that the same or similar violation is not likely to reoccur.
5. If a violation occurs, the City or its agent shall have the power to order complete restoration of the critical area by the party responsible for the violation. If said responsible party does not complete the restoration within a reasonable time following the order, as established by the City, the City or its agent shall restore the affected critical area to the prior condition and the party responsible shall be indebted to the City for the cost of restoration.
6. The applicant shall provide easement language with the final plat specifying that the access and utility easement is shared with the southern lot.
7. All undeveloped riparian and steep slope buffers, as well as landslide hazard areas and heritage tree protection areas on site shall be designated as native growth protection easements (NGPE) and recorded on the final short plat document and the deeds for each property. The NGPE shall state the presence of the critical area and buffer on the properties, the application of the White Salmon Critical Areas Ordinance to the properties, and the fact that limitations on actions in or affecting the critical area or buffer exist. The NGPE shall "run with the land." Other than the riparian buffer enhancement actions proposed by the applicant in the habitat study/HMP addendum, no other alterations including grading, vegetation clearing, planting of lawns or gardens, or other yard improvements may occur within the NGPE unless another critical areas permit is approved.
8. Temporary fencing shall be placed along the outer perimeter of the riparian buffer, landslide hazard area, steep slope buffer, the disturbed buffer area, and the heritage tree protection area prior to commencement of any permitted development activities. Inspection by the City

or its agent shall occur prior to commencement of any permitted development activities. Fencing shall remain throughout construction and shall not be removed until directed by the city or its agent.

9. The applicant and/or developer shall implement the habitat study/HMP, including performance standards, maintenance and monitoring plan, and contingency plan, as detailed in the Kalberg Property Critical Areas Habitat Study and Habitat Management Plan, dated February 26, 2019 and the amendment to this plan, dated July 23, 2019, including the heritage tree protection plan and riparian buffer enhancement planting specifications.
10. A detailed construction plan prior to building permit approval shall incorporate the mitigation and planting specifications outlined in the addendum to the habitat study/HMP, dated July 23, 2019, and the performance standards, maintenance and monitoring plan, and the contingency plan outlined in the Kalberg Property Critical Areas Habitat Study and Habitat Management Plan, dated February 26, 2019.
11. If a specific deviation or failure occurs that is not covered in the proposed contingency plan, modification measures shall be implemented to address the specific deviation or measure subject to the same monitoring requirements of the original contingency mitigation measures. The modification measures shall be submitted to the City as part of required monitoring plans.
12. Utilities shall not be located outside of the proposed developable areas for each proposed lot.
13. With the exception of tightline drainage over the slope, stormwater facilities shall only be allowed in the buildable areas and utility easement as designated on the "Buildable Area Plan Heritage Tree Protection Plan" submitted with the habitat study/HMP addendum.
14. No grading, excavation, demolition or construction activity shall occur within the heritage tree protection area. If any grading, excavation, demolition, or construction activity is proposed within any heritage tree protection area, a tree protection plan shall be prepared in accordance with the applicable guidelines for a critical areas report and habitat management plan per Section 18.10.200 and a critical areas permit shall be obtained, prior to the issuance of any permit for grading or construction in the protection area.
15. The geotechnical engineer who authored the Geologically Hazardous Critical Area Report for Robert Kalberg will need to provide a current, dated stamp documenting that they are a licensed engineer in the State of Washington prior to approval of building permits.
16. The applicant and/or developer shall implement all geotechnical recommendations outlined in the Geologically Hazardous Critical Area Report for Robert Kalberg, dated June 20, 2018.
17. Prior to the commencement of any approved building activities, the top of slope shall be flagged and inspected by City staff or a City agent for review and approval.
18. Prior to building permit approval, the applicant shall provide additional information about the load capacity of the site and how the site can accommodate the proposed uses and specific recommendations and best management practices for constructing single-family homes and associated uses on the site in relation to the load capacity.

III. EXHIBITS

A: Kalberg Property Critical Areas Habitat Study and Habitat Management Plan
B: Addendum to Kalberg Property Critical Areas Habitat Study and Habitat Management Plan
C: WDFW review comments
D: Geologically Hazardous Critical Area Report for Robert Kalberg
E: Public comment – Luke and Margaret Bradford

Sincerely,

Pat Munyan

City Administrator/Public Works Director